

HECTOR H. PERRY

NOVEMBER 26 (legislative day, NOVEMBER 18), 1943.—Ordered to be printed

Mr. JOHNSON of Colorado, from the Committee on Military Affairs,
submitted the following

REPORT

[To accompany S. 296]

The Committee on Military Affairs, to whom was referred the bill (S. 296) for the relief of Hector H. Perry, having considered the same, report favorably thereon with a recommendation that it do pass.

Bills similar to S. 296, for the relief of Hector H. Perry, were reported favorably by the Senate Military Affairs Committee during the Seventy-third, Seventy-fourth, and Seventy-fifth Congresses and were passed by the Senate.

The purpose of this bill is to consider Hector H. Perry honorably discharged as a member of the medical detachment, Second Regiment United States Engineers, on September 21, 1928.

Perry's military record shows that he was in the service 3 years and about 3 months, enlisting March 27, 1917, and listed as having deserted June 26, 1920. He left for overseas December 12, 1917, with the medical detachment, Fifteenth Field Artillery, serving in the Toulon-Troyon defensive sector (Lorraine) March 24 to May 11, 1918; the Aisne defensive June 1 to 5, 1918; the Chateau-Thierry defensive sector (Ile de France) June 6 to July 16, 1918; participated in the Aisne-Marne offensive July 18 to 25, 1918; served in the Marbache defensive sector (Lorraine) August 6 to 18, 1918; in the Limey defensive sector (Lorraine) September 9 to 11, 1918; participated in the St. Mihiel offensive September 12 to 16, 1918; and in the Meuse-Argonne offensive September 29 to October 27, and October 30 to November 11, 1918.

In examining evidence on file in behalf of claimant, attention is called to a letter from Senator Walsh to Senator Austin, who served on a subcommittee on a similar bill, in which Senator Walsh asks favorable consideration of the measure on the grounds of mental incompetency of claimant, and his splendid World War record as evidenced by War Department report.

Mrs. Martha Stowell, who worked in the Memorial Hospital in Worcester in 1920, where Perry called upon her, and who is Perry's wife, testified in an affidavit signed December 13, 1932, that she knew Hector H. Perry in 1920 when he came to Memorial Hospital, Worcester, Mass., that he seemed to have no definite aim in life, that his mind wandered, that he was very forgetful, that she felt something was wrong with him, that she did hear he had been shell-shocked, that she decided this accounted for his strange stories and peculiar actions, that Perry's whole attitude, appearance, and conversation convinced her that he was suffering from some mental disorder.

Dr. Inez M. Currie, Webster, Mass., in unsworn statement May 20, 1932, stated in substance that he had known Perry for some years, that Perry is extremely nervous, that in past few years he seems to have deteriorated mentally rapidly.

Dr. M. M. Jordan, Worcester, Mass., May 23, 1932, in unsworn statement stated that Alfred Fanchez, alias Hector Perry, was mentally irresponsible when he deserted from Army, that he has gone over hospital records at Worcester State Hospital very carefully, that the history and examinations they have made confirm his opinion.

There is also on file an affidavit by William W. Perron, November 29, 1932, who states that he was in the Army at Camp Devens with Perry in 1919, that they bunked next to each other, that Perry was never dressed neatly, that he was very absent minded, that he never had any money, and the affiant sets forth certain instances, illustrating his contention that Hector H. Perry was absent minded in 1919 when he was with him and in 1920 when he met him in Worcester Mass.; that altogether Perry was mentally deficient.

The claimant's military record shows that he deserted the military service June 26, 1920; that he voluntarily surrendered himself to military control on May 29, 1928; that he was tried, and that he was given a dishonorable discharge. The records show that at his trial in 1928 Perry pleaded "Not guilty, by reason of insanity." In connection with Perry's plea of insanity at the time he left the service, a board of medical officers was convened to make an investigation of his case. Although the board held that Perry in 1928 had no features of abnormality which rendered him not susceptible to ordinary human motives or appreciation of right or wrong or the normal control of his actions, and that there was no evidence that at the time of his desertion he had features of abnormality which would render him not susceptible to ordinary human motives or appreciation of right or wrong in the normal control of his actions, the board did hold in part as follows:

1. That Private Perry is a case of constitutional psychopathic state, inadequate personality, manifested by lack of judgment, poor memory, nomadism, and varied occupational career.

After studying carefully the evidence in this case, noting the splendid and long combat record of the claimant, which may well have led to his physical and mental condition, and the testimony of doctors who observed and studied his case, together with testimony from those in intimate association with Perry as to his mental incompetency, the Military Affairs Committee believe that the relief for which provision is made in S. 296 is justified and deserved. This man's military record for overseas duty during the World War shows that he participated in some eight or nine major defensive and offensive engagements.

Report of the War Department on S. 870, an identical bill of the Seventy-fifth Congress, under date of February 2, 1937, follows:

HON. MORRIS SHEPPARD,
*Chairman, Committee on Military Affairs,
United States Senate.*

DEAR SENATOR SHEPPARD: In response to your request of January 18, 1937, for information relative to the bill (S. 870, 75th Cong., 1st sess.) for the relief of Hector H. Perry, your consideration is invited to the enclosed statement of military service of this former soldier prepared in the office of The Adjutant General, which contains all pertinent data concerning the man, which appear of record in the War Department.

The bill under consideration proposes by its terms that in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Hector H. Perry, who was a member of the Medical Detachment, Second Engineers, shall hereafter be held and considered to have been honorably discharged from the military service September 21, 1928. Examination of the statement of service prepared in the office of The Adjutant General from the official record discloses that this soldier deserted the military service June 26, 1920, surrendered to military control May 29, 1928, and was dishonorably discharged from the United States Army September 21, 1928, pursuant to a sentence of a general court martial, upon conviction of the charge of desertion, in violation of the fifty-eighth article of war.

Upon receipt of a request from the chairman, Committee on Military Affairs, House of Representatives, for report on bill H. R. 5102, Seventy-fourth Congress, first session, which was similar to the pending measure, the matter was referred to the Judge Advocate General of the Army, who made the following statement, under date of March 6, 1935:

"Perry was tried by general court martial at Fort Adams, R. I., August 3, 1928, for violation of the fifty-eighth article of war, the specification thereunder alleging that he deserted the service of the United States at Hoff General Hospital, Staten Island, N. Y., on or about June 26, 1920, and remained absent in desertion until he surrendered himself at Fort Adams, R. I., on or about May 29, 1928. Perry pleaded to the specification and charge, 'Not guilty, by reason of insanity.'

"The question of insanity having been raised upon arraignment, the court directed that medical testimony be first introduced. Capt. William T. Fisher, Medical Corps, testified that in his opinion Perry at the time of trial knew right from wrong and was capable of normal control of his actions, but that, judging from Perry's own story, which was without corroboration, there was reasonable doubt as to his responsibility at the time of the commission of the offense. He further testified that medical reports introduced showed that the accused was admitted to the hospital on April 17, 1919, diagnosis, 'Psychosis, type undetermined', and that he went absent without leave after 13 days; that he was in the hospital 91 days in 1920 with 'Gonococcus infection of the urethra' and went absent without leave while under treatment.

"First Lt. Rawley E. Chambers, Medical Corps, testified that in his opinion Perry was mentally responsible at the time of trial; that he could not say what Perry's mental condition was 8 years previous to that time, but that from the latter's own story there appeared to be some doubt as to his mental condition at that time.

"The report of the board of medical officers, of which the officers who testified in person were the senior and junior members, was received in evidence. The board found as follows:

"1. That Private Perry is a case of constitutional psychopathic state, inadequate personality, manifested by lack of judgment, poor memory, nomadism, and varied occupational career.

"2. The board is further of the opinion that at the present time there are no features of abnormality which render him not susceptible to ordinary human motives or appreciation of right or wrong or the normal control of his actions.

"3. That he is capable of conducting his defense either with or without the aid of counsel.

"4. That there is no evidence that at the time of the commission of the alleged offense that he had features of abnormality which would render him not susceptible to ordinary human motives or appreciation of right or wrong in the normal control of his actions.'

"Upon consideration of the medical testimony the court found the accused to be sane and proceeded with the trial. Competent evidence was introduced showing absence without leave on June 26, 1920, and surrender as alleged. An affidavit

of accused was introduced in evidence in which he admitted going absent without leave on June 26, 1920, but claimed that he lost his mind 2 or 3 days thereafter and wandered around the country until he 'came to' and wrote a letter to The Adjutant General of the Army. Perry testified at the trial that he 'came to' about 'a year ago.'

"Perry was found guilty as charged, and was sentenced to dishonorable discharge, forfeiture of all pay and allowances due or to become due, and confinement at hard labor for 1 year.

"All the members of the court who sat in this case joined in a letter recommending remission of the dishonorable discharge and 6 months of the confinement because of the possibility that Perry was suffering from some mental disorder at the time of his desertion, and because of the length of time he had been in confinement.

"The reviewing authority, on September 13, 1928, approved the sentence, but remitted the confinement adjudged.

"The record of trial was examined by the board of review in this office and found to be legally sufficient to support the sentence, which holding was concurred in by the Judge Advocate General.

"There is nothing in the record justifying favorable consideration by the War Department of the bill, H. R. 5102."

The enactment of this bill into law would, in effect, constitute a legislative pardon for the offense for which the former soldier was convicted in accordance with laws enacted for the Government and control of the military forces. Moreover, the enactment would place a man with an unsavory military record, one who was convicted by general court martial of deserting the Army during the period of the war and remaining absent in desertion for approximately 8 years and was accordingly dishonorably discharged, on a par with, and entitle him to the same privileges and benefits as those who rendered good and faithful service, and by reason of such service have received honorable discharges. Nothing appears in the record of this man to indicate that any injustice has been done him. The proposed legislation seemingly has for its object the granting of certain benefits and privileges now denied him by existing law. So far as this Department is able to ascertain, there is no justification for the legislation, and no merit in the claim of the former soldier for special favors or consideration.

The War Department strongly recommends that the bill be not favorably considered.

Sincerely yours,

HARRY H. WOODRING,
Secretary of War.

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE,
February 2, 1937.

The records show that Hector H. Perry, Army serial number 16141, enlisted in the military service March 27, 1917, at Fort Slocum, N. Y., and was assigned to duty as a private, Medical Department, Fort Wadsworth, N. Y. He was transferred June 11, 1917, to mobilization camp, Syracuse, N. Y., where he was assigned to the medical detachment, Fifteenth Field Artillery. He sailed from the United States with that organization December 12, 1917, and was transferred July 14, 1918, to medical detachment, Second Engineers. With medical detachment, Fifteenth Field Artillery, Second Division, and medical detachment, Second Engineers, Second Division, he served in the Toulon-Troyon defensive sector March 24 to May 11, 1918; Aisne defensive June 1-5, 1918; Chateau-Thierry defensive sector June 6 to July 16, 1918; Aisne-Marne offensive July 18-20, 1918; Marbache defensive sector August 6-18, 1918; Limey defensive sector September 9-11, 1918; St. Mihiel offensive September 12-16, 1918; Meuse-Argonne offensive September 29 to October 27, 1918, and October 30 to November 11, 1918. He was convicted by summary court martial approved September 3, 1918, of violation of the sixty-first article of war, in that he did without proper leave absent himself from his detachment August 30 to September 2, 1918, and was sentenced to forfeit \$15 of his pay; by summary court martial, approved October 1, 1918, of violation of the sixty-third article of war, in that he did, on or about September 26, 1918, behave himself with disrespect toward his superior noncommissioned officer, and was sentenced to forfeit \$10 of his pay; by summary court martial, approved December 5, 1918, of violation of the ninety-sixth article of war, in that he having received a lawful order from his superior officer attaching him to Company D, Second Engineers, as Hospital Corps man, did not leave Rolinger, Luxemborg, Germany, with that company on November 30, 1918.

when the company left that place, and in that having received a lawful order to wear his brassard at all times, on or about December 1, 1918, failed to do so and was sentenced to forfeit two-thirds of his pay per month for 3 months; by summary court martial, approved April 3, 1919, of violation of the ninety-sixth article of war, in that he did, on or about March 26, 1919, wrongfully use a poisonous intoxicant (denatured alcohol) by drinking it, and was sentenced to be confined at hard labor for 2 months, and to have two-thirds of his pay per month detained for 3 months; and was convicted by summary court martial, approved June 10, 1919, of violation of the sixty-ninth article of war, in that he escaped from confinement before being set at liberty by proper authority, having been placed in confinement by his commanding officer on account of having been convicted of an offense; and of violation of the sixty-first article of war, in that he did absent himself from his station and remained absent until he was apprehended by the Military Police, and was sentenced to be confined at hard labor for 3 months, and to forfeit two-thirds of his pay for a like period. He was transferred, under guard, in July 1919 to Brest, France, for return to United States, arrived as a garrison prisoner at Hoboken, N. J., July 14, 1919, and was sent to Camp Merritt, N. J., thence to Camp Devens, Mass., where he was released from confinement and assigned to duty with the medical detachment, Thirty-sixth Infantry, on August 19, 1919.

He was convicted by summary court martial, approved September 17, 1919, of violation of the ninety-sixth article of war, in that having been restricted to the limits of camp, did, on or about September 13, 1919, break the same, and in that he did on September 13, 1919, violate standing orders and was sentenced to be confined at hard labor for 1 month and to forfeit two-thirds of his unallotted pay for the same period. He was transferred October 16, 1919, to United States Army General Hospital No. 41, Fox Hills, N. Y. He was convicted by summary court martial, approved March 12, 1920 of violation of the sixty-first article of war, in that he did absent himself without leave from about February 2 to March 6, 1920, and was sentenced to forfeit two-thirds of his pay for 1 month and to be restricted to post for the same period; and by summary court martial, approved June 16, 1920, of violation of the sixty-first article of war, in that he was absent without leave from about June 9 to 11, 1920, and of violation of the sixty-fifth article of war, in that having received a lawful order from a noncommissioned officer, did disobey the same on or about June 9, 1920, and was sentenced to forfeit two-thirds of his pay for 1 month. He was granted a furlough June 17, 1920, and deserted the service June 26, 1920, and remained absent in desertion until May 29, 1928, when he surrendered to military control at Fort Adams, R. I. He was tried by general court martial and convicted of violation of the fifty-eighth article of war, in that he did, on or about June 26, 1920, desert the service of the United States and did remain absent in desertion until he surrendered himself at Fort Adams, R. I., on or about May 29, 1928, and was sentenced to be dishonorably discharged from the service, to forfeit all pay and allowances due or to become due, and to be confined at hard labor for 1 year. The sentence was approved by the reviewing authority, but the confinement adjudged was remitted. The charges, pleas, findings, and sentence were published in General Court Martial Orders No. 60, Headquarters, First Corps Area, Boston, Mass., dated September 20, 1928, a copy of which is enclosed. Pursuant to the sentence, he was dishonorably discharged from the military service September 21, 1928.

The medical records show that he received treatment from April 3 to 17, 1917, for measles; January 24 to February 4, 1919, for influenza; April 17 to 22, 1919, for psychoneurosis, type undetermined, diagnosis also shown as alcoholism; from March 6 to June 5, 1920, for a disability not incident to the service; from June 11 to 16, 1920, for a disability not incident to the service and furunculosis; from June 26 to July 27, 1928, for constitutional psychopathic state, inadequate personality; and August 9 to 12, 1928, for psychoneurosis, hysteria, acute, constitutional psychopathic state, inadequate personality.

Respectfully submitted.

Major General,
The Adjutant General.

[Copy]

HEADQUARTERS FIRST CORPS AREA,
Boston, Mass., September 20, 1928.

GENERAL COURT-MARTIAL ORDERS, No. 160.

Before a general court martial which convened at Fort Adams, R. I., pursuant to paragraph 7, Special Orders No. 84, Headquarters First Corps Area, April 11, 1928, was arraigned and tried:

Private Hector H. Perry, 16141, Medical Department.

Charge: Violation of the fifty-eighth article of war.

Specification: In that Pvt. Hector H. Perry, Medical Department, did, at Hoff General Hospital, Staten Island, N. Y., on or about June 26, 1920, desert the service of the United States, and did remain absent in desertion until he surrendered himself at Fort Adams, R. I., on or about May 29, 1928.

PLEAS

To the specification and the charge: Not guilty by reason of insanity.

FINDINGS

Of the specification and the charge: Guilty.

SENTENCE

To be dishonorably discharged the service, to forfeit all pay and allowances due or to become due, and to be confined at hard labor at such place as the reviewing authority may direct for 1 year.

The sentence was adjudged on August 3, 1928.

The sentence is approved, but the confinement adjudged is remitted, and, article of war 50½ having been complied with, the sentence, as modified, will be duly executed.

By command of Major General Brown:

MORRIS E. LOCKE,
Lieutenant Colonel, General Staff Corps,
Acting Chief of Staff.

Official:

J. E. WOODWARD,
Colonel, Adjutant General's Department, Adjutant General.
(J. A. G. O., No. 183,420.)

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